

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DIANE RICE**, on January 14, 2003 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Verdell Jackson, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Norman Ballantyne (D)
Rep. Bob Bergren (D)
Rep. Norma Bixby (D)
Rep. Carol Lambert (R)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Brennan Ryan (D)
Rep. Veronica Small-Eastman (D)
Rep. Bill Thomas (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)

Members Absent: None.

Staff Present: Lisa Gallagher, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 47, 1/14/2003
Executive Action: HB 31 Do Pass; HB 128 Do Pass
As Amended

Comments: Tape did not record

HEARING ON HB 47**Sponsor:** REPRESENTATIVE PAUL CLARK, HD 72, TROUT CREEK**Opening Statement by Sponsor:**

REP. PAUL CLARK, HD 72, TROUT CREEK, said that this bill will create a different avenue for creating a herd district. Currently the petitioner has to have 55% of the property and 25% of it has to either be cultivated or residential. What this bill will do is up the 55% to 75% and cut out the other qualifications. This bill is designed for Saunders County, which is not an agriculture area. A herd district is an exclusion to an open range. In an open range cattle are free to roam unless the property is fenced. In a herd district it is the responsibility of the land owner to fence in the cattle.

Proponents' Testimony: none**Opponents' Testimony:**

Doug Kaercher, Hill County Commissioner/MACO, stated that they are opposed to this bill because they are concerned that a minority land owner could establish a herd district.

Questions from Committee Members and Responses:

REP. LAMBERT asked **Steve Pelcher, Executive Director of the Montana Stockgrowers Association,** if it is possible for one person to create a herd district. **Steve Pilcher** replied by saying that one landowner who met all of the requirements could establish a herd district.

REP. LAMBERT asked **Steve Pilcher** why anyone would want to create a herd district. **Steve Pilcher** said that very few landowners would want to however, **REP. CLARK** has some landowners that would like to establish a herd district and this would be to keep the cattle out.

REP. LAMBERT asked **Steve Pilcher** if there are benefits to establishing a herd district. **Steve Pilcher** said that there are benefits to some people, however ranchers don't want herd districts.

REP. LENHART asked **Steve Pilcher,** "How many herd districts are there in Montana?" **Steve Pilcher** referred the question to **Mark Bridges, Executive Officer of the Board of Livestock,** who said that west of the divide there are 23 herd districts in Ravalli

County, 3 in Missoula County, 1 in Saunders County and 1 in Lewis & Clark County. All together in the state of Montana, there are less than 100 herd districts.

REP. LENHART asked **Mark Bridges** if there are problems with herd districts. **Mark Bridges** said that herd district were created in the 1920's and 1930's. Since this time the biggest problems have been the boundaries of the fences and who is responsible for the fence repairs.

REP. BERGREN asked **REP. CLARK** if the people that want this bill own cattle. **REP. CLARK** said that some of them have cattle, and if they want to establish a herd district they will have to support it in order for the 75% of the landowners requirement to be reached. Some ranchers want to keep their cattle separated and they would support this. Ranchers also want to keep their cattle from breaking fences.

REP. PETERSON asked **Doug Kaercher, Hill County Commissioner/MACO**, if his concern was with the minority land owner being able to establish a herd district and how 75% of the landowners could be a minority and establish a herd district. **Doug Kaercher** said that his concern is that this bill is designed for a specific area and that they should use a different method to solve this problem such as zoning or subdivision.

REP. PETERSON asked **Doug Kaercher**, "Does 75% of the landowners address your concern?" **Doug Kaercher** replied that dropping the 25% from the bill was a concern, and he does not know if it is 75% of the landowners or 75% of the petitioners.

REP. PETERSON asked **REP. CLARK**, "Is it 75% of the landowners or is it 75% of the petitioners?" **REP. CLARK** said that it is 75% of the landowners, which is 75% of 12 square miles. There is no provision for a minority landowner to establish a herd district.

Doug Kaercher said that he withdraws his concern and is a proponent.

Closing by Sponsor:

REP. CLARK said that this bill is only providing a different avenue for creating a herd district. It is only need for a specific area and that zoning will not help. This bill will probably only be used a couple of times and if they establish a herd district based on the 75% requirement there must be good reason for one.

EXECUTIVE ACTION ON HB 31

Motion/Vote: REP. WAITSCHIES moved that HB 31 DO PASS. Motion carried 16-0, by voice vote.

EXECUTIVE ACTION ON HB 128

Motion: REP. WAITSCHIES moved HB 128 BE RECONSIDERED.

Discussion:

Krista Lee Evans said that the language in HB 128 was the same language in the RIT but this does not mean that 15 years down the road a judge will interpret it the same way. What we have done is drawn up another amendment that makes the language clearer and, also adds in that it will take a 3/4 vote of both houses to take from the principal of this trust.

EXHIBIT (agh07a01)

Motion/Vote: REP. LAMBERT moved that THE AMENDMENT TO HB 128 BE RECONSIDERED. Motion carried 16-0, by voice vote.

Motion/Vote: REP. PETERSON moved TO STRIKE THE AMENDMENT ON HB 128. Motion carried 16-0, by voice vote.

Discussion:

REP. RICE said that this amendment adds the 3/4 vote of both houses to this trust and also helps clear up the language in regard to the principal of this trust before it hits \$10 million. There is wide support for this trust.

EXHIBIT (agh07a02)

REP. WAITSCHIES said this money has to be used for weed management.

REP. RICE said that it has to be appropriated to the Department of Agriculture to be used for fighting noxious weeds.

REP. PETERSON said that all the revenue has to be appropriated to the Department of Agriculture, but with a 3/4 vote of both houses, they can take from the principal of the account before it hits \$10 million.

Krista Lee Evans said that the interest can be appropriated, and with a majority vote the principal can be tapped.

REP. RICE said that right now, the only money that is being used to fight noxious weeds is the interest from this trust. However, the money is still being appropriated to the Department of Agriculture every year for the trust.

REP. JACKSON said this money is used to fight weeds, and there are several different sources of money for this trust to be built up. He said, "We do not want to short-change ourselves when it comes to fighting weeds." He asked, "When does the money go into the trust and when it is used for weed control?"

REP. RICE said that she did not understand and would like him to clarify.

REP. JACKSON asked, "If we could use the RIT money or does that have to go into the principal of this trust?"

Krista Lee Evans said that it depends on how you write the legislation and where you put it.

REP. JACKSON said then we need another bill to put more money into this trust.

REP. RICE said we have the chance of getting private donations, since it is used for weed control and only weed control.

REP. PETERSON asked if what was being created was a trust, that is, a shell.

REP. RICE stated that this fund currently has \$4.7 million in it.

Krista Lee Evans said that it is currently a statutorial trust, and we are making it a constitutional trust.

Motion/Vote: **REP. LENHART** moved that **HB 128 BE AMENDED. Motion carried 16-0**, by voice vote.

Motion/Vote: **REP. LAMBERT** moved that **HB 128 DO PASS AS AMENDED. Motion carried 16-0**, by voice vote.

EXECUTIVE ACTION ON HB 47

Motion: **REP. LAMBERT** moved that **HB 47 DO PASS.**

Discussion:

REP. WAITSCHIES said that he has some problems with this bill. He stated that 12 square miles is a big area and the herd district controls more area than just that 12 square miles. A herd district controls a big area and the petitioners will make someone else do the fencing. His concern is that the burden is put on someone else.

Krista Lee Evans said that those creating the herd district are responsible for the fencing of the herd district.

REP. WAITSCHIES asked, "How much of the cost do they incur?"

Krista Lee Evans said that it is the responsibility of the petitioners to build the fences, and they have to pay for the entire fencing.

REP. PETERSON said that it is the responsibility of the petitioners to fence the property. A herd district is to keep the cattle in. He stated that when he talked to **John Bloomquist, Attorney for Montana Stockgrowers Association**, he had said that 100% of the cost is born by the petitioners.

REP. ANDERSON asked, "What if a cow is hit by a car in a herd district? Is the cost of the cow the responsibility of the owner?" **REP. PETERSON** said that the cost of the cow is covered by the owner. It is the owner's responsibility to keep that cow fenced in.

REP. ANDERSON asked if there is a group of uncontrollable cows and they run all over, if a provision exists in the law that would make it the liability of the owner. **REP. PETERSON** said that it is still the responsibility of the owner of the cows for the damage that is done.

REP. LAMBERT withdrew her motion for HB 47.

ADJOURNMENT

Adjournment: 4:00 P.M.

REP. DIANE RICE, Chairman

LISA GALLAGHER, Secretary

DR/LG

EXHIBIT (agh07aad)